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4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
6 **SAN JOSE DIVISION**
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8 MICHEL KECK,

9 Plaintiff,

10 v.

11 ALIBABA.COM HONG KONG LTD., et
12 al.,

13 Defendants.

Case No. 17-cv-05672-BLF

**ORDER DENYING PLAINTIFF'S
CORRECTED MOTION TO AMEND
CASE MANAGEMENT ORDER**

[Re: ECF 306]

14 Before the Court is Plaintiff's corrected motion to amend case management order
15 ("Motion"). Motion, ECF 306. Plaintiff requests to continue the class certification discovery,
16 filing, and hearing date deadlines by approximately four and a half months. Motion at 1.
17 Defendants oppose in full. Opp'n, ECF 307. For the reasons stated below, Plaintiff's Motion is
18 DENIED.

19 **I. LEGAL STANDARD**

20 A party seeking to amend a scheduling order must show "good cause" for such relief. Fed.
21 R. Civ. P. 16(b)(4) ("A schedule may be modified only for good cause and with the judge's
22 consent."). A "good cause determination focuses primarily on the diligence of the moving party."
23 *Yeager v. Yeager*, 2009 WL 1159175, at *2 (E.D. Cal. Apr. 29, 2009) (citing *Johnson v. Mammoth*
24 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). Courts may take into account any resulting
25 prejudice to the opposing party, but "the focus of the [Rule 16(b)] inquiry is upon the moving
26 party's reasons for seeking modification . . . [i]f that party was not diligent, the inquiry should
27 end." *In re W. States Wholesale Nat. Gas Antitrust Litig.*, 715 F.3d 716, 737 (9th Cir. 2013) *aff'd*
28 *sub nom. Oneok, Inc. v. Learjet, Inc.*, 135 S. Ct. 1591 (2015) (quoting *Johnson*, 975 F.2d at 609).

II. DISCUSSION

The earliest existing class deadline for which modification is sought is September 16, 2019, Plaintiff’s last day to serve class certification expert reports. *See* ECF 290 at 4. The last day to file class certification motions is December 20, 2019, and the last day for the Court to hear any such motion is April 2, 2020. *See id.*

Plaintiff requests to delay these deadlines by four and a half months on the basis that on April 22, 2019, Judge van Keulen (the presiding magistrate judge) “ordered the Alibaba Defendants to complete the production of documents relevant to class certification by August 15, 2019.” *See* Motion at 1; *see also* Discovery Order at 2, ECF 302. Plaintiff argues that her requested extension is appropriate “because the Alibaba Defendants’ August 15 deadline for producing documents is four-and-a-half months from the March 31 date that the class deadlines are currently tied to.” *See* Motion at 3. Plaintiff further argues that she requires the extra time “to review tens (or, likely, hundreds) of thousands of documents . . . depose witnesses . . . and serve and collect targeted follow-up written discovery.” *See id.* Defendants counter that Judge van Keulen’s discovery order at ECF 302 contemplated precisely this issue and set the August 15, 2019 production deadline accordingly. *See* Opp’n at 2. In other words, Defendants argue that Plaintiff has no basis for her request because it contradicts the discovery order and because Plaintiff has not shown that she will be unable to meet the existing deadlines. *See id.* at 1–2, 4.

The Court agrees with Defendants. Judge van Keulen’s discovery order at ECF 302 clearly considers the existing class certification deadlines—i.e., “the underlying issue of ensuring the timely production of relevant materials sufficiently in advance of the first class certification deadline on September 16, 2019.” *See* Discovery Order at 1. Plaintiff has failed to demonstrate why this Court should second guess Judge van Keulen’s ruling. Moreover, Plaintiff has not demonstrated¹ that the existing schedule “cannot reasonably be met despite the diligence of the party seeking the extension.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (internal quotation and citation omitted). In sum, Plaintiff’s Motion is DENIED.

¹ On May 8, 2018, Plaintiff filed a “reply” to its Motion. ECF 308. Plaintiff was not permitted a reply, but in any event, the Court is unpersuaded by any additional arguments presented.

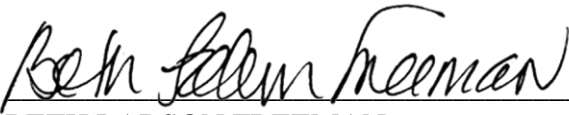
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III. ORDER

For the foregoing reasons, Plaintiff’s Motion at ECF 306 is DENIED.

IT IS SO ORDERED.

Dated: May 8, 2019


BETH LABSON FREEMAN
United States District Judge